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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AYOUB ABDALLA MAYASSI,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-72357

Agency No. A92-465-064

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 8, 2005^{**}

Before: WALLACE, LEAVY, and BERZON, Circuit Judges.

Ayoub Abdalla Mayassi, a native and citizen of Lebanon, petitions pro se for review of a Board of Immigration Appeals (“BIA”) order dismissing his appeal from an Immigration Judge’s (“IJ”) order denying his motion to reopen his

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal proceedings. To the extent we have jurisdiction, it is pursuant to 8 U.S.C. § 1252. We dismiss the petition for review in part and deny it in part.

Mayassi petitions for review of the IJ's prior denial of relief under the Convention Against Torture. He also contends that his former counsel was ineffective, and that conditions have changed in Lebanon. Mayassi did not exhaust his administrative remedies with respect to these claims, however, and we therefore lack jurisdiction to review them. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (holding that exhaustion is mandatory and jurisdictional).

Reviewing for abuse of discretion, *Singh v. INS*, 213 F.3d 1050, 1052 (9th Cir. 2000), we conclude that the BIA acted within in its discretion in determining that Mayassi's motion to reopen was untimely, as it was filed more than three years after his final order of removal. *See* 8 C.F.R. § 1003.2(c)(2). We deny this aspect of the petition for review.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.